SUPREME COURT OF THE UNITED STATES.

No. 272.

THE UNITED STATES, APPELLANTS,

vs.

JULIAN ALIRE.

APPEAL FROM THE COURT OF CLAIMS.

INDEX.

	Original.	Print.
Claimant's petition	1	1
Amendment to same	3	2
Motion to dismiss by United States solicitor	4	3
Judgment of the court overruling same	5	3
Judgment of court in favor of claimant	6	3
Final decree	7	3
Petition of defendants for the allowance of an appeal as certified by the court.	9	4
Certificate of chief clerk of Court of Claims with attestation of Chief Justice Casey	10	5

Petition.—No. 1,855.

In the Court of Claims.

JULIAN ALIRE
vs.
THE UNITED STATES.

1st. Your petitioner, Julian Alire, a resident of the Territory of New Mexico, would most respectfully state to the court that, in conformity with the acts of Congress relating to bounty land, dated 3d of March, 1855, and 14th of May, 1856, he made application to the Commissioner of Pensions for one hundred and sixty acres of bounty land, said application being dated 18th June, 1857, and that said application and the proof accompanying it, and the authentication of said application and proof, in all respects, conformed to the provisions of said acts of Congress and the rules and regulations of the Pension office.

2d. That said application for bounty land was based upon the 5th section of the act of May 14, 1856, and the 3d section of the act of 3d of March, 1855, for service in battle on the 18th day of May, 1855, and the said application being fully examined by the Commissioner of Pensions, was by him rejected on the 15th day of September, 1857.

3d. That the sole ground upon which said bounty land was refused to said petitioner, was the fact that the battle service took place after the 3d of March, 1855, and that no bounty land could be issued for any service taking place subsequent to that date.

4th. That on the 15th day of February, 1859, your petitioner called up for re-examination the said application for bounty, and the application was again rejected by the Commissioner of Pensions.

5th. That an appeal was asked for and granted to the Secretary of the Interior in said case, and the right of the petitioner to bounty land was on said appeal submitted to the Secretary of the Interior.

6th. That on the 6th day of April, 1859, the Secretary of the Interior having fully considered said appeal, affirmed the decision of the Commissioner of Pensions rejecting the claim of your petitioner,

2 and that by means of said decision of the said Commissioner of Pensions, and the affirmance of the same by the Secretary of the Interior, your petitioner has been deprived of his bounty land warrant for one hundred and sixty acres of land, to which he is legally entitled under the acts of Congress above cited.

7th. That on the 28th day of January, 1861, your petitioner applied to the Secretary of the Interior for a rehearing of said appeal, with a view of a reference of the question to the Attorney General for his opinion in the case.

8th. That said application for a rehearing of said case was refused by the Secretary of the Interior, and a reference of the question to the Attorney General denied your petitioner, all of which facts will more fully appear by reference to a copy of said proceedings in

said case, hereby made a part of this petition, marked as Exhibit A herein.

9th. That your petitioner, under the acts of Congress aforesaid, and in conformity with the application and proof submitted by him to the Commissioner of Pensions, was of right entitled to have a bounty land warrant for one hundred and sixty acres of land issued to him by the said Commissioner of Pensions; and your petitioner has been deprived of said bounty land by the construction put upon said acts of Congress by the said Commissioner of Pensions and Secretary of the Interior.

10th. That your petitioner being without remedy, except by Congress, through the interposition of the Court of Claims, most respectfully asks that, upon due proof of the facts set forth in this petition, the honorable Court of Claims will report a bill for his relief, directing the Commissioner of Pensions to issue to your petitioner a bounty land warrant for one hundred and sixty acres of land on his said application and proof now on file in the office of the Commissioner of Pensions; all of which is respectfully submitted.

JOHN S. WATTS,
Att'y for Petitioner.

DISTRICT OF COLUMBIA,
County of Washington:

John S. Watts, the attorney of the claimant in the above case, upon his oath states that the facts stated and set forth in the above petition are true, to the best of his knowlege and belief.

JOHN S. WATTS.

Sworn to and subscribed before me this twenty-first day of February, 1861.

EDM. F. BROWN,
Commissioner of the Court of Claims.

3 JULIAN ALIRE *vs.* THE UNITED STATES. } No. 1,855.

Your petitioner, Julian Alire, by way of amendment to the original petition filed in this case, says, that he, the said Julian Alire, has at all times borne true allegiance to the government of the United States; that he is a loyal citizen of the United States, and has not in any way voluntarily aided, abetted, or given encouragement in any manner to the rebellion against the government of the United States.

JULIAN ALIRE.
By JOHN S. WATTS, *his Attorney.*

CITY OF WASHINGTON,
District of Columbia:

I, John S. Watts, the attorney of the claimant, Julian Alire, upon my oath state that the matters and things set forth in the above

amendment to the original petition are true in substance and in fact, to the best of my knowledge, information, and belief.

JOHN S. WATTS,
Attorney for Julian Alire.

Subscribed and sworn to this 12th day of January, A. D. 1854, before me.

SAM'L H. HUNTINGTON,
Chief Clerk Court of Claims.

4 In the court of claims, October term, 1863.

JULIAN ALIRE
vs.
THE UNITED STATES.

I move the court to dismiss this case for the following reasons:

1. It has no jurisdiction of the cause of action, if any, set forth in the petition.
2. It has no power or authority to grant the relief prayed for, nor any relief, to the claimant.
3. The facts stated in the petition constitute no sufficient cause of action upon which this court can act.

G. GIBSON, *Solicitor U. S.*

5 At a Court of Claims held at the Capitol, in the city of Washington, on the 4th day of May, A. D. 1865.

JULIAN ALIRE
vs.
THE UNITED STATES. } Motion to dismiss.

Chief Justice Casey stated that this case is governed by the principles announced in the case of the city of Carondelet *vs.* The United States, and the motion to dismiss is therefore overruled.

6 At a Court of Claims held at the Capitol, in the city of Washington, on the 8th day of January, A. D. 1866.

JULIAN ALIRE
vs.
THE UNITED STATES.

In this case Chief Justice Casey delivered the opinion of the court in favor of the claimant; the final decree of the court to be made and entered up hereafter.

7 In the U. S. Court of Claims.

Decree.

JULIAN ALIRE
vs.
THE UNITED STATES.

And now to wit, 5 April, A. D. 1866, this cause having heretofore been heard and considered by the court, it is now further con-

sidered, adjudged, and decreed by the said court, before the judges thereof now here, that the said Julian Alire, the claimant, is entitled to have and recover, of and from the United States, one military bounty land warrant for one hundred and sixty acres of land for services rendered by him, the said Julian Alire, as a volunteer in the military service of the United States in an Indian war, in the year A. D. 1856; and the said warrant is, by the court now here,
8 adjudged and decreed to him the said Julian Alire; and it is also further adjudged and decreed by the same court, that the said military bounty land warrant be made, issued, and delivered to the said Julian Alire, by the proper officer. It is further ordered that this decree be certified by the clerk of Court of Claims, under the seal thereof, and remitted to the Secretary of the Department of the Interior.

By the court.

9 In the U. S. Court of Claims.

JULIAN ALIRE
vs.
THE UNITED STATES.

To the honorable the Court of Claims:

The defendant in the above-entitled cause prays the allowance of an appeal to the Supreme Court from the judgment of this court rendered in said cause, and makes the following specifications of errors in the rulings and judgments of this court in said cause:

The defendant moved the court to dismiss this cause for the following reasons:

1. The court has no jurisdiction of the cause of action, if any, set forth in the petition.

2. It has no powers or authority to grant the relief prayed for, nor any relief to the claimant.

3. The facts stated in the petition constitute no sufficient cause of action upon which this court can act.

The court overruled the motion to dismiss, and erred therein, for the reasons assigned for the motion.

Secondly. The court erred in its construction of the first section of the act of March 3, 1855, (10 Stat., 701,) in giving said act a prospective effect so as to embrace within its provisions services rendered after the date of said act.

Thirdly. The court erred in the final decree granting the plaintiff the relief prayed for.

The decree in this case will affect a class of cases, and furnish a precedent for the future action of an executive department of the government in the adjustment of this class of cases.

W. W. KETCHAM,
Solicitor U. S. C. of Claims.

10 In the Court of Claims.

JULIAN ALIRE
vs.
THE UNITED STATES.

I, Samuel H. Huntington, chief clerk of the Court of Claims, do hereby certify that the foregoing is a true transcript of the pleadings in the above-entitled case, and of the judgments of the court thereon, with the petition of the solicitor of the United States, in the Court of Claims, in behalf of the defendants for the allowance of an appeal annexed, as certified by the court.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Washington, this third day of July, 1866.

[SEAL.] SAM'L HUNTINGTON,
Chief Clerk Court of Claims.

Attest: JOS. CASEY,
Ch. J., C't of Cl.

At a Court of Claims held at the Capitol in the city of Washington, on Wednesday, the 25th day of April, A. D. 1866.

JULIAN ALIRE
vs.
THE UNITED STATES.

The above-entitled cause is submitted on petition of appeal to the Supreme Court of the United States.

At a Court of Claims held at the Capitol in the city of Washington, on Thursday, the 21st day June, A. D. 1866.

JULIAN ALIRE
vs.
THE UNITED STATES.

The appeal in the above case is allowed as prayed for by United States solicitor in his petition.

A true copy of record.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Washington, this 17th day of June, A. D. 1866.

[SEAL.] SAM'L H. HUNTINGTON,
Ch. Clerk Court of Claims.

Attest: JOS. CASEY, *Ch. J.*

Filed 24th October, 1866.

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